be allowable, and it was in that claim that the language "projecting from" was present. Thus, the language "projecting from" was not the basis for allowance of the parent claims and there is no basis for rejecting the claims of the present application as an attempt to recapture material surrendered in the application in order to obtain allowance.

Indeed, the Office Action does not explain why the method claim 34, which has been added by reissue, even arguably is included within this rejection as the claims in the parent patent were directed to the vacuum process apparatus for vacuum chamber. In any event, the inclusion of "projecting from" language in the original claims was clearly an error, without deceptive intent, within the meaning of §251. Applicant never relied upon that language to obtain its original patent.

The rejection of claims 1, 3-8, 10, 11, 15, 16, 18-24, 28 and 30-34 as being anticipated by JP '727 under 35 U.S.C. §102(b) is traversed, and reconsideration is requested.

Aside from the fact that the Office Action does not clearly explain the pertinency of each reference, at least with regard to the independent claims, as provided for by the rules of the Patent and Trademark Office, the JP '727 document appears to teach the use of pivotable arms, at the retractable arms in which the articulation is effected by a rotary bearing with superior dust proof characteristics. In other words, this document appears to suggest appropriately selecting the movable links of

the transport arms to achieve dust-proof characteristics. There is no teaching or suggestion of encapsulated drives in the JP '727 document.

An important object of the present invention is to be able to close a respective opening when a workpiece has been brought adjacent to that opening by rotating a drive shaft and an associated conveyor. Such a workpiece is then moved via the encapsulated drive towards the opening, and the closing of the opening occurs either by way of the workpiece itself being pushed toward the border of the opening or by the conveyor being pushed onto the border.

Fig. 1 of JP '727 discloses the common vacuum chamber 1 which surrounds four processing chambers and is evacuated to the same degree of vacuum. In light of this structure, there is no teaching or suggestion of how the openings in the separate processing chambers could be closed by movement of the arms. This is in contrast to the present invention which has the ability to close the respective openings by the arm movements outwardly or separating the respective chambers or, more generally, to separate the inside of the chamber with a transport device from something installed on an outer side of the opening when the arms bring a workpiece to an outermost position.

For the convenience of the Examiner, applicant is attaching hereto a translation of the JP '727 document so that the Examiner can more fully see the structural differences between the

structure described therein and the present invention as set forth in the rejected claims.

The claims are also now amended to make it clear that the workpieces are moved in a direction other than in their own plane as is the case in JP '727. By virtue of this feature, applicant has been able to obtain smaller movements of the drive in order to remove the disk from the processing chamber and out of the opening. Furthermore, by controlling closure and opening of the respective opening with the same drives which move the conveyors, the openings can be shut after the workpiece has been fed therethrough by the drive so as to separate the chamber with the transport device from a processing chamber mounted to the opening. This provides a great degree of freedom in selecting processing atmospheres and vacuums at the processing chambers independently of the atmospheres and degree of vacuum in the chamber itself.

For the same reasons, the rejection of claims 2, 9, 12-14, 17, 25-27 and 29 as being unpatentable over JP '727 under 35 U.S.C. §103(a) is traversed, and reconsideration is requested.

The Office Action simply fails to state a prima facie case of obviousness based upon the factually unsupported assertions that it would have been an obvious matter of design choice as to what is supplied at each station or the use of a warped opening or the particulars of the holding means "are considered old and well known in the art." An applicant is not required to show

criticality with regard to non-existent teachings. It is the Patent and Trademark Office which is required to show, based on substantial evidence, that any differences between the present invention as claimed and the JP '727 document would have been obvious at the time the invention was made. No such showing has been made in this case. Therefore, the Office Action does not state a prima facie case of obviousness.

The rejection of claims 31-34 as being anticipated by DE '544 under 35 U.S.C. §102 is traversed, and reconsideration is requested.

In order to avoid the need for a petition to obtain a complete office action, applicant would again request a full explanation of why that document is considered to anticipate the claims. A similar request was made in the paper filed September 27, 1999, and the Patent and Trademark Office cannot now assert that any so-called failure to argue the previous rejection is considered an agreement that the reference is readable on those claims. It is the initial burden on the Patent and Trademark Office to make a case of anticipation or obviousness and to provide an explanation for its reasoning. To do otherwise deprives an applicant of due process. Regardless of whether or not the Examiner has complied with that approach, he cannot now assert that the claims are admitted to be readable on the reference. Such an approach turns administrative procedure on its head.

The undersigned directs the Examiner's attention to U.S. Patent No. 3,915,117 (first page attachedP corresponding to the DE'544 document so that the Examiner can determine what is and is not taught by that document and to provide a complete Office Action in terms of the rejection of claims 31-34.

Applicant also attaches hereto a Supplemental Declaration as required.

Early and favorable action upon the claims in this application are now earnestly solicited.

If there are any questions regarding this amendment or the application in general, a telephone call to the undersigned would be appreciated since this should expedite the prosecution of the application for all concerned.

If necessary to effect a timely response, this paper should be considered as a petition for an Extension of Time sufficient to effect a timely response, and please charge any deficiency in fees or credit any overpayments to Deposit Account No. 05-1323 (Docket #622/40901CO).

Respectfully submitted,

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